

## **CRITICAL AREA COMMISSION BILLS**

### **SB482/HB1030 – Real Property Sales – Disclosure Requirements – Chesapeake and Atlantic Coastal Bays Critical Area**

These bills require a contract or an addendum to a contract for the sale of real property to contain in conspicuous type a specific disclosure to buyers advising the buyers of the possibility that the property may fall within the Chesapeake and Atlantic Coastal Bays Critical Area.

### **SB694/HB1009 – Chesapeake and Atlantic Coastal Bays Critical Area Protection Program – Miscellaneous Enforcement Provisions**

These bills make several changes to the Chesapeake and Atlantic Coastal Bays Critical Area Protection Program. The bills clarify legislative intent regarding human impacts on the bays and the importance of a minimum “buffer,” and they codify current regulations requiring a local program to include the establishment of a minimum buffer. The bills specifically define “unwarranted hardship” to mean that, without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested. Also, key procedural aspects of a local jurisdiction’s consideration of a variance are established in statute. Finally the bills enhance local program enforcement authority in two additional ways: 1) violators of local program requirements are subject to prosecution or suit by local authorities. Local attorneys, however, generally have little experience with the critical area law and its program components. While violations may be referred to the Attorney General, that enforcement tool is not triggered unless the chairman of the commission has reason to believe that a local program has failed in its enforcement requirements, which is rarely the case. Thus, Senate Bill 694/House Bill 1009 streamline the process for referral to the Attorney General. 2) if, for example, a person cuts or clears trees within the critical area in violation of program regulations, the local jurisdiction may bring an action to require replanting or to restrain the violation. As for monetary damages, though, current law allows for a maximum of \$500. Therefore, in order to deter program violations, these bills require local programs to establish penalties up to \$10,000.

### **SB795/HB1345 – Chesapeake and Atlantic Coastal Bays Critical Area Protection Program – Dwelling Units**

SB795/HB1345 address inconsistencies in how local governments factor accessory dwelling units, such as in-law suites, guesthouses, or employee quarters, into the calculation of the one-in-20 acres density in a resource conservation area. These bills define “dwelling unit” to include these accessory structures and by requiring, with certain exceptions, that a local jurisdiction count each dwelling unit for purposes of the 1-in-20 calculation.